

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4708-08
Bill No.: HCS for SCS for SB 829
Subject: County Government; Environmental Protection
Type: Original
Date: May 10, 2010

Bill Summary: This proposal modifies provisions relating to the justice system.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	(More than \$1,400,000) to Unknown	(More than \$1,400,000) to Unknown	(More than \$1,400,000) to Unknown
Total Estimated Net Effect on General Revenue Fund	(More than \$1,400,000) to Unknown	(More than \$1,400,000) to Unknown	(More than \$1,400,000) to Unknown

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
DNA Profiling Analysis	\$1,400,000	\$1,400,000	\$1,400,000
MO Office of Prosecution Services*	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds*	\$1,400,000	\$1,400,000	\$1,400,000

*Offsetting Revenues and Costs of an Up to \$116,000 per fiscal year, net to \$0.

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 15 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Total Estimated Net Effect on FTE	0	0	0

☒ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☒ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
Local Government	\$0	\$0	\$0

*Offsetting Local Government Revenues and Costs of \$0 or Unknown per year, net to \$0.

KG:LR:OD

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Coordinating Board for Higher Education, Department of Labor and Industrial Relations, Department of Insurance, Financial Institutions, and Professional Registration, Department of Mental Health, Department of Natural Resources, Missouri Consolidated Health Care Plan, Department of Conservation, Department of Transportation, Missouri Ethics Commission, Office of the State Auditor, City of Centralia, Jefferson City Police Department, Linn State Technical College and Parkway School District** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Department of Elementary and Secondary Education (DESE)** assume there is no state cost to the foundation formula associated with this proposal. Should the new crimes and amendments to current law result in additional fines or penalties, DESE cannot know how much additional money might be collected by local governments or the DOR to distribute to schools. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to schools increases the deduction in the foundation formula the following year. Therefore, the affected districts will see an equal decrease in the amount of funding received through the formula the following year; unless the affected districts are hold-harmless, in which case the districts will not see a decrease in the amount of funding received through the formula (any increase in fine money distributed to the hold-harmless districts will simply be additional money). An increase in the deduction (all other factors remaining constant) reduces the cost to the state of funding the formula.

Oversight assumes any increase or decrease in fine or penalty revenues generated cannot be determined. Therefore, the fiscal note does not reflect any fine or penalty revenues for the local school districts.

Officials from the **Office of the Attorney General** assumes that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Missouri Senate** assume the proposal has either no fiscal impact or minimal costs which can be absorbed by present appropriations.

ASSUMPTION (continued)

Officials from the **Office of the Secretary of State (SOS)** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this proposal for Administrative Rules is less than \$2,500. The SOS recognizes this is a small amount and does not expect additional funding would be required to meet these costs. However, SOS also recognizes that many such bills may be passed in a given year and that collectively the costs may be in excess of what the SOS can sustain with their core budget. Any additional required funding would be handled through the budget process.

In response to similar legislation filed this year (HB 1451, 3992-07), officials from the **Office of the State Public Defender (SPD)** assumed increasing penalties on existing crimes, or creating new crimes, will require more SPD resources. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional appropriations for this specific bill, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all its cases. SPD assumes a minimal unknown impact.

Oversight assumes the **Office of the State Public Defender (SPD)** could absorb the costs of the proposed legislation within existing resources. Oversight assumes any significant increase in the workload of the SPD would be reflected in future budget requests.

Section 209.200

Officials from the **Office of Administration - Division of Budget and Planning** state this provision is an addition to the list of misdemeanors. The impact of the additional penalties collected for violations of this provision to the state is unknown.

Sections 302.020, 302.321 & 303.025

Officials from the **Office of Administration – Division of Budget and Planning (BAP)** state these provisions change the laws regarding motor vehicle infractions. BAP defers to the Department of Public Safety for an estimate of costs and revenues to the state.

ASSUMPTION (continued)

Sections 479.260 and 488.5032

Officials from the **Office of State Courts Administrator** assume this proposal would allow courts to charge costs in municipal and criminal cases where the charges are dismissed.

Section 488.5050

Officials from the **Office of Administration – Division of Budget and Planning** assume prior to implementation of section 488.5050.4, certain court fees were deposited in the DNA Profiling Analysis Fund. In Fiscal Year 2009, \$1,464,814 was deposited in the DNA Profiling Analysis Fund. Because the state's general revenue did not increase by two percent or more in 2008, the revenues previously deposited in the DNA Profiling Analysis Fund are currently being deposited into general revenue fund.

Officials from the **Department of Public Safety – Missouri State Highway Patrol, Crime Laboratory Division** state that at the beginning of the 2010 fiscal year, all the funding intended for the DNA profiling fund was redirected to general revenue. This amounted to approximately \$1.4 million. If this bill is enacted, the court fees received will be deposited in the DNA Profiling Analysis Fund. This funding originates from court fees assessed on individuals convicted of a felony or misdemeanor. The funding portion of this bill includes an emergency clause.

Section 557.014

In response to similar legislation filed this year (HB 1451, LR# 3992-07), officials from the **Department of Corrections (DOC)** assumed this proposed legislation allows prosecuting or circuit attorneys to collect restitution as a condition of parole or conditional release, gives DOC the authority to create a three year mental health assessment pilot program, allows for the use of a prosecution diversion program, creates a restitution handling fee, and creates the Administrative Handling Cost Fund.

Although this bill enhances the restitution statute to include not only tampering and stealing offenses, but for any offense the court so chooses. Restitution is already considered a mandate and the DOC is authorized to remove funding from the inmate's account (if it exists) while the defendant is incarcerated. Failure to pay mandated restitution may result in extension to the maximum term of parole or revocation may mean time served in prison.

ASSUMPTION (continued)

Based on Section 557.014, which gives prosecuting attorneys the authority to divert accused offenders to a prosecution diversion program and Section 559.117, which gives DOC the authorization to create a three year mental health assessment pilot program, DOC believes that this will result in fewer offenders going to prison. Therefore, the impact to DOC is an Unknown savings.

In response to similar legislation filed this year (HB 1451, LR# 3992-07), officials from the **Department of Revenue (DOR)** assumed the provisions in Section 557.014 permit "deferred prosecution" for most traffic offenses, at the sole discretion of the local prosecuting attorney. This would potentially affect Missouri state compliance with 49 CFR Part 384 federal commercial driver license program, resulting in a possible loss of federal highway funds.

Failure to comply with the federal regulations could result in the loss of Missouri's portion of federal highway funds, with the first year of non-compliance resulting in a 5% reduction (approximately \$25 million) and each subsequent year of subject to a 10% reductions (approximately \$50 to \$65 million).

Oversight assumes the loss of federal funding is speculative and dependent upon other factors. For fiscal note purposes, Oversight assumes no fiscal impact.

Sections 559.100, 559.105

Officials from the **Office of Administration – Division of Budget and Planning** assume this proposal would allow various fees to be assessed for restitution in certain cases and credited to the Office of Prosecution Services Fund. Any revenue from fees collected would impact Total State Revenue (TSR). B&P defers to the Office of Prosecution Services for a specific estimate of costs or savings.

Officials from the **Office of Prosecution Services (OPS)** assume the proposal would have a positive financial impact on the Missouri Office of Prosecution Services estimated between \$116,162.50 and \$168,820.00. The theory and estimation of how the fiscal impact was calculated is outlined in the paragraphs below.

ASSUMPTION (continued)

OPS surveyed of all 115 counties (which includes the City of St. Louis) as to how many cases in 2009 restitution was ordered. It should be noted restitution did not include cases of bad checks. 42 counties responded to the survey, which is equivalent to 36.5% of counties reporting. Of those 42 counties, there were a total of 12,331 cases in which restitution was ordered. It should be noted that Jackson County responded and accounted for 6,293 cases or 51% of the total reported cases.

The theory to determine the fiscal impact on the Missouri Office of Prosecution Services was to survey all counties as to how many cases there were in FY 2009 with restitution ordered, then add the total number of cases and multiple times the proposed minimum \$5.00 fee.

Two amounts were determined: one using Jackson County in with a total state average and the second by determining the average of the responding counties without Jackson County and then adding Jackson County to the total.

The counties that responded to the survey included: Andrew, Atchison, Audrain, Benton Buchanan, Caldwell, Callaway, Camden, Cape Girardeau, Cedar, Clay, Cole, Dallas, Franklin, Gentry, Grundy, Henry, Holt, Jackson, Jefferson, Knox, Laclede, Maries, McDonald, Mercer, Miller, New Madrid, Newton, Pike, Randolph, Ray, Ripley, Shelby, St. Francois, St. Genevieve, St. Louis City, St. Louis County, Stone, Taney, Warren and Washington.

The high end of \$168,820.00 was figured by averaging the cases of restitution in all the counties, including Jackson County, and then multiplying the average number of cases by 115 (total counties) and multiplying again by the \$5.00 fee:

All 42 Counties Surveyed

42 counties w/ a total of 12,331 cases
 $12,331 / 42 = 293.6$ average cases per county
 $293.6 \times 115 \text{ counties} = 33,764$ average total cases statewide
 $33,764 \text{ cases} \times \$5.00 = \$168,820.00$ estimated total fiscal impact

The lower end of \$116,162.50 was figured by determining the average number of cases of the counties surveyed (not including Jackson County), multiplying that average number by the total number of counties (not including Jackson County) then multiplying that by the \$5.00 fee and then adding that average amount to the dollar amount that Jackson County would bring alone by collecting restitution on all their cases. Jackson County would bring in \$31,465.00 and the remainder of the counties would average \$84,697.50 for a total of \$116,162.50.

KG:LR:OD

ASSUMPTION (continued)

Jackson County: 6,293 cases x \$5.00 = \$31,465

12,331 (total reported cases) - 6,293 (Jackson Co. cases) = 6,038 remaining total cases
6,038 remaining cases / 41 remaining counties = 147.3 avg. cases/county
147.3 x 114 = 16,792 estimated cases statewide
16,792 x \$5.00 = \$84,697.50 (all counties except Jackson)
\$84,697.50 + \$31,465.00 (Jackson Co.) = \$116,162.50

Oversight assumes the administrative handling cost would be deposited into the county Administrative Handling Cost Fund and then distributed to the county prosecuting attorney or circuit attorney. Oversight has utilized the estimates provided by Office of Prosecution Services for the average without Jackson County, and then adding Jackson County estimates. Oversight assumes the administrative handling cost would not be collected on all cases. Therefore, Oversight assumes the deposits in this fund to be Up to \$116,000 per fiscal year, and to be equal to the costs of the county prosecuting attorney or circuit attorney. Oversight has adjusted the FY11 estimate to reflect 10 months.

Oversight assumes the additional cost of five dollars per crime victim paid by persons paying restitution would be deposited into the Missouri Office of Prosecution Services Fund. Oversight assumes the deposits into this would be used by the Office of Prosecution Services, as specified in Sections 56.750 , 556.755, and 56.760, RSMo. Oversight assumes the deposits to be equal to the costs of the Office of Prosecution Services.

Section 559.117

In response to similar legislation filed this year (HB 1451, LR# 3992-07), officials from the **Department of Corrections (DOC)** assumed, based on Section 557.014, which gives prosecuting attorneys the authority to divert accused offenders to a prosecution diversion program, and Section 559.117, which gives DOC the authorization to create a three year mental health assessment pilot program, DOC believes that this will result in fewer offenders going to prison. Therefore, the impact to DOC is an Unknown savings.

ASSUMPTION (continued)

Sections 595.036, 595.037, 595.060 & 621.275

In response to identical legislation filed this year (SB 787, LR# 4148-03), the following responded:

Officials from the **Department of Public Safety** assumed that any costs associated with the proposal can be absorbed with existing resources.

Officials from the **Administrative Hearing Commission** anticipated that this legislation will not significantly alter its caseload. However, if other similar bills also pass, there will be fiscal impact. If there are more cases, or more complex cases, there could be a fiscal impact.

Officials from the **Office of the State Courts Administrator** stated the proposal would not have a fiscal impact on the courts.

Section 650.470

Officials from the **Office of Administration – Division of Budget and Planning** assume moneys received into the fund through appropriations, federal funds, gifts, bequests, and donations are to be used as grants to urban police departments for the purchase of real-time pursuit management systems. Any revenue collected into this fund would impact Total State Revenue (TSR).

Officials from the **Department of Public Safety (DPS) – Director's Office** assume the possible fiscal impact is Unknown, but less than \$100,000. DPS does not know how many agencies these funds would be available to, or how much budgeted money would be available to grant to the agencies.

For fiscal note purposes, **Oversight** has reflected the Reverend Nathaniel Cole Memorial Pursuit Reduction Grant amount as \$0 or Unknown, as it is not known whether funds will be appropriated or the amount of funds that may be available.

The proposed legislation could fiscally impact Total State Revenue.

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
GENERAL REVENUE FUND			
<u>Revenues</u> - Additional penalties collected for violation of provision (\$209.200)	Unknown	Unknown	Unknown
<u>Savings</u> - Department of Corrections Fewer incarcerations (\$557.014, 559.117)	Unknown	Unknown	Unknown
<u>Costs</u> - Department of Public Safety - Director's Office (\$650.470) For Reverend Nathaniel Cole Memorial Pursuit Reduction Grants	(Unknown)	(Unknown)	(Unknown)
<u>Losses</u> - Missouri State Highway Patrol Court fees (\$488.5050)	<u>(\$1,400,000)</u>	<u>(\$1,400,000)</u>	<u>(\$1,400,000)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(More than \$1,400,000) to Unknown</u>	<u>(More than \$1,400,000) to Unknown</u>	<u>(More than \$1,400,000) to Unknown</u>
DNA PROFILING ANALYSIS FUND			
<u>Revenues</u> - Missouri State Highway Patrol Court fees (\$488.5050)	<u>\$1,400,000</u>	<u>\$1,400,000</u>	<u>\$1,400,000</u>
ESTIMATED NET EFFECT ON DNA PROFILING ANALYSIS FUND	<u>\$1,400,000</u>	<u>\$1,400,000</u>	<u>\$1,400,000</u>

**MO OFFICE OF PROSECUTION
 SERVICES FUND**

Revenues - Office of Prosecution
 Services

Additional cost from persons paying restitution (§559.100, 559.105)	Up to \$97,000	Up to \$116,000	Up to \$116,000
--	----------------	-----------------	-----------------

Costs - Office of Prosecution Services

Administrative costs (§559.100, 559.105)	(Up to \$97,000)	(Up to \$116,000)	(Up to \$116,000)
---	------------------	-------------------	-------------------

**ESTIMATED NET EFFECT ON MO
 OFFICE OF PROSECUTION
 SERVICES FUND**

<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
-------------------	-------------------	-------------------

FISCAL IMPACT - Local Government

FY 2011 (10 Mo.)	FY 2012	FY 2013
---------------------	---------	---------

LOCAL GOVERNMENT

Revenues - Urban Law Enforcement
 Agencies

Reverend Nathaniel Cole Memorial Pursuit Reduction Grants (§650.470)	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
---	----------------	----------------	----------------

Costs - Urban Law Enforcement
 Agencies

Purchase of real-time tagging and tracking pursuit management systems (§650.470)	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
--	-------------------------	-------------------------	-------------------------

**ESTIMATED NET EFFECT ON
 LOCAL GOVERNMENT**

<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
-------------------	-------------------	-------------------

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

Section 209.200

This bill adds professional therapy dog to the definition of "service dog" as it relates to crimes against these animals or crimes of impersonating a disabled person. A "professional therapy dog" is defined as a dog which is selected, trained, and tested to provide specific physical therapeutic functions, under the direction and control of a qualified handler who works with the dog as a team as a part of the handler's occupation or profession but does not include dogs used by volunteers in visitation therapy.

Section 488.5050

The proposed legislation requires an individual who is found guilty in any criminal case in a circuit court to be assessed a \$30 surcharge and removes the provision assessing the surcharge to an individual who pled nolo contendere in these cases. Currently, these funds are deposited into general revenue if the state's general revenue did not increase by 2% in the previous fiscal year. This provision is removed and instead directs these moneys to be deposited into the DNA Profiling Analysis Fund to be used only by the State Highway Patrol Crime Lab. The proposal contains an emergency clause, and shall be in full force and effect upon passage and approval.

Section 557.014

The prosecuting attorney shall have the authority to divert a criminal case to a prosecution diversion program.

Sections 559.100 and 559.105

The proposal requires any restitution ordered by the court or agreed to by the parties to be paid through the Office of the Prosecuting or Circuit Attorney. Any prosecuting or circuit attorney who collects restitution will also collect from the person paying restitution an administrative handling cost in addition to all other costs and fees allowed by law. The cost will be \$25 for restitution of less than \$100 and \$50 for restitution between \$100 and \$249. For restitution of \$250 or more, the cost will be 10% of the total restitution, not to exceed \$75. In addition to the administrative handling cost, an installment cost will be assessed in the amount of \$2 for each restitution payment except for the first payment. The county treasurer is to deposit the costs collected and the restitution payments received into a separate interest-bearing administrative

KG:LR:OD

FISCAL DESCRIPTION (continued)

handling cost fund. The prosecuting or circuit attorney is required to collect from the person paying restitution an additional \$5 per crime victim to whom restitution is being paid. Those funds must be deposited into the Missouri Office of Prosecution Services Fund and transmitted at least monthly to the Director of the Department of Revenue. The proposal specifies how the moneys are to be used and that the fund may be audited by the State Auditor or the appropriate auditing agency. The court may set an amount of restitution to be paid by a defendant who is incarcerated. The amount will be taken from the inmate's account at the Department of Corrections.

Section 559.117

The director of the Department of Corrections is authorize to establish, as a three-year pilot program, a mental health assessment process. Upon a motion filed by the prosecutor in a criminal case, the judge may request that an offender be placed in the Department of Corrections for 120 days for a mental health assessment and treatment if it appears the person has a mental disorder or illness. The offender must qualify for probation including community psychiatric rehabilitation programs and such probation must be appropriate and consistent with public safety for the offender to be eligible for placement. Before the judge rules on the motion, the victim shall be given the opportunity to be heard by the court. Upon recommendation of the court, the department shall determine the offender's eligibility for the mental health process. Following the assessment and treatment period, an assessment report shall be sent to the court. The court, if appropriate, may release the offender on probation. The offender shall be supervised by a state probation officer, who will work with the department of mental health to enroll eligible offenders in community psychiatric rehabilitation programs. Persons convicted of certain serious offenses or any other offense where probation or parole is prohibited or persons found to be predatory sexual offenders are not eligible for probation under this act. After three years, the directors of the Department of Corrections and Department of Mental Health shall jointly recommend to the Governor and General Assembly by December 31, 2013, on whether to expand the process statewide.

Section 650.470

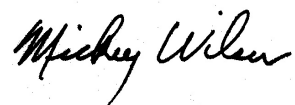
The proposal creates the Reverend Nathaniel Cole Memorial Pursuit Reduction Grant to be administered by the Director of the Department of Public Safety. Any moneys appropriated or received from federal grants, gifts, or donations to the fund will be used to provide grants, in the amount of a 50% match, to certain eligible urban police departments which purchase real-time tagging and tracking pursuit management systems.

FISCAL DESCRIPTION (continued)

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

City of Centralia
Coordinating Board for Higher Education
Department of Elementary and Secondary Education
Department of Public Safety
 -Missouri Highway Patrol, Crime Laboratory Division
Department of Corrections
Department of Natural Resources
Department of Labor and Industrial Relations
Department of Mental Health
Department of Transportation
Department of Revenue
Department of Insurance, Financial Institutions, and Professional Registration
Department of Conservation
Jefferson City Police Department
Linn State Technical College
Missouri Consolidated Health care Plan
Missouri Ethics Commission
Missouri Senate
Office of Prosecution Services
Office of the State Auditor
Office of Administration
 -Administrative Hearing Commission
 -Budget and Planning Division
Office of Public Defender
Office of Attorney General
Office of State Courts Administrator
Office of Secretary of State
Parkway School District



L.R. No. 4708-08
Bill No. HCS for SCS for SB 829
Page 15 of 15
May 10, 2010

Mickey Wilson, CPA
Director
May 10, 2010

KG:LR:OD